

Memorandum**DOCKET****08-AFC-5**DATE AUG 06 2009RECD. AUG 06 2009Date: August 6, 2009
Telephone: (916) 653-1639**To:** Commissioner Jeffrey D. Byron, Presiding Member
Commissioner Julia Levin, Associate Member**From:** California Energy Commission – Christopher Meyer
1516 Ninth Street
Sacramento, CA 95814-5512
Project Manager**Subject: SES SOLAR TWO PROJECT (08-AFC-5) STATUS REPORT #4**

Pursuant to the Revised Committee Scheduling Order dated March 4, 2009, the following is Energy Commission staff's Status Report 4 for the proposed Stirling Energy Systems Solar Two (SES Solar Two) Project.

Current Issues and Activities for Resolution

- Energy Commission staff is reviewing whether or not being an invited signatory on the Programmatic Agreement (PA) that will be drafted between the BLM and the California State Historic Preservation Officer would be a legal and practical option. Energy Commission staff is also reviewing if being a signatory to the PA would expedite the environmental review process.
- In response to Energy Commission and BLM staff concerns on the cultural resources information provided by the applicant in the revised technical report, BLM's cultural resources contractor and staff completed the Cultural Resources Site Location and Cultural Content Ground-Truth Task: Levels I and II Evaluations and Recommendation Report for the BLM on June 4, 2009. In ground-truthing 60 sites from the applicant's revised cultural resources report received in April of 2009, the BLM found that 10 sites were acceptable with no or only very minor editorial changes, 24 sites showed inconsistencies between the applicant's report and previously recorded data but could be corrected with information already available to the applicant, 26 sites will require additional field survey and recordation, and 3 previously unrecorded sites were missed by the applicant in the original field survey. Based on the statistical potential for approximately 104 of the remaining 242 sites recorded by the applicant to have inadequate documentation and 20 undocumented resources, the BLM and Energy Commission staff have required SES to revisit much of the cultural resource information provided as part of Data Request Set 2, Part 2. This resurveying and recording effort is currently underway and the BLM and Energy Commission expect that it will take the applicant up to 6 months to file the results of this effort.
 - The Energy Commission and BLM cultural resources staff continue to work with the applicant's cultural resources specialists to address cultural resource concerns on the 6,500 acre site and review the latest final draft cultural resources report received on April 13, 2009. Due to the sheer

volume of information in the report, it was submitted on eight compact disks. Staff is working to review this information as quickly as possible.

- In February of 2009, the applicant contacted the BLM and Energy Commission project managers to discuss the procedure for changing certain aspects of the project in response to the Issues Identification Report and comments received at the scoping meetings. The applicant reviewed extending the proposed water supply line to Seely in order to access reclaimed water rather than fresh water from the Westside Canal. In addition, in a response to one of staff's data requests, the applicant stated that the project description would be changed to reflect the on-site production of hydrogen. Although the applicant initially expressed interest in bringing a small natural gas service line in to the project site to fuel construction and operations vehicles and reduce greenhouse gas impacts, the applicant will attempt to reduce these emissions through other means.
 - On June 12, 2009, the applicant filed a Supplement to the Solar Two Application for Certification to change the source of water and hydrogen. The supplement outlined a change in the project description replacing the proposed potable water use from the Westside Canal with reclaimed water from the Seeley Waste Water Treatment Facility as the source of water for the project. The applicant also discussed the extension and rerouting of the water supply pipeline in the supplement. The project description was also modified to change from hydrogen delivery to the on-site production of hydrogen. This would reduce truck trips to and from the site related to hydrogen delivery and require the addition of hydrogen production equipment on the proposed project site. Staff is updating the analysis in several technical areas to address the changes related to the June 12, 2009 supplemental filing.
- On June 18, 2009, staff filed Data Request Set 2, Part 2 on Cultural Resources (Data Requests #142-150) and Public Health (Data Requests #151-155). The cultural resource data requests are in response to the June 4, 2009 Cultural Resources Site Location and Cultural Content Ground-Truth Task: Levels I and II Evaluations and Recommendation Report discussed above. The Public Health data requests focused on informational needs related to the use of emergency diesel generators and pumps.
 - On July 6, 2009, the applicant requested additional time to respond to the staff's Data Requests #142-150 due to the complexity involved in providing the requested information. BLM and Energy Commission staff are working to find ways to move forward with the Preliminary Staff Assessment (PSA)/Draft Environmental Impact Statement (DEIS) while the applicant completes the work related to these data requests.
 - On July 8, 2009, the applicant filed responses to the Public Health data requests (#151-155). Staff is currently reviewing the applicant's responses to these data requests.
- On June 6, 2009, California Unions for Reliable Energy (CURE) submitted Data Requests, Set Two (#143-178) to the applicant on the proposed project.

- On July 2, 2009, the applicant filed responses to the CURE data requests (#143-178). Staff is currently reviewing the applicant's responses to these data requests and will consider them in the preparation of the technical sections of the PSA/DEIS.
- On May 6, 2009, staff filed Data Request Set 2, Part 1 in the areas of Air Quality (#128-131), Alternatives (#132-134), Land Use (#135-137), Noise and Vibration (#138-139), and Traffic and Transportation (#140-141). The Air Quality data requests addressed the soil binder proposed by the applicant, clarifications to the vehicle fueling information, and construction related greenhouse gas (GHG) emissions. The Alternatives data requests were for clarifications of the 300 MW alternative proposed by the applicant, and additional biological and cultural resource information for the South of Hwy SR 98 Alternative site, the Mesquite Lake Alternative, and the Border Lands Alternative. The Land Use data requests involved necessary information on coordination with Imperial County on zoning for the portion of the project on private land and recent changes to the project related to the water supply pipeline. The Noise and Vibration data requests sought descriptions of the grouping of "receivers" located northwest of the western project boundary, including ambient noise values and distances from the project boundary and noise-producing project features. The Traffic and Transportation data requests sought clarifications to statements made by the applicant at the November 24, 2008 workshop in El Centro related to proposed changes in the number of truck trips and possible delivery of equipment by rail.
 - On June 5, 2009, the applicant filed responses to BLM and Energy Commission staff's Data Requests #128-141. Staff is reviewing the responses and incorporating the new information into the draft sections of the joint environmental review document.
- Staff filed Data Request Set 1, Part 2 on December 2, 2008 for Air Quality (Data Requests #53-110) and Cultural Resources (Data Requests #111-127 and BLM appendix). Details on these data requests can be found in staff's Status Report #2.
 - On December 22, 2008, the applicant requested additional time to respond to the staff's Data Requests #53-127. The data responses were originally expected in early February of 2009, however the complexity of the information requested delayed the applicant's responses until April 1, 2009.
 - On March 20, 2009, the applicant filed information to supplement its previous responses to the Energy Commission and BLM Data Requests #1-3, 5-10, 14, 24-26, 31-33, 36-38, 44 and 111-127 (originally filed December 10, 2008). Details on these revised responses to the data requests can be found in staff's Status Report #2.
 - On July 6, 2009, the applicant provided response to Energy Commission and BLM Data Requests #31 and 32: The Drainage, Erosion and Sediment Control Plan (DESCP)/ Storm Water Pollution Prevention Plan (SWPPP). The BLM's contractor, LSA Associates, is assisting the Energy Commission staff in reviewing the SWPPP and DESCP.

- Although some Energy Commission staff have completed the initial draft of their technical areas in the format of a standard Preliminary Staff Assessment (PSA), considerable work will be required to meet the minimum requirements of National Environmental Policy Act (NEPA) on cumulative impacts and alternatives since NEPA provides for a different standard of review of alternatives than the California Environmental Quality Act.
- On April 6, 2009, California Unions for Reliable Energy (CURE) submitted 143 data requests to the applicant on the proposed project. On April 24, 2009, the applicant filed a letter objecting to seven of the 143 data requests. The applicant provided responses to the remaining data requests on May 6, 2009. Staff will consider the responses in the preparation of the technical sections of the PSA/DEIS.

Schedule

Due to the high volume of projects currently under review by the Energy Commission and the BLM, a 15% reduction in Energy Commission staff hours required by the Governor's Executive Order S-13-09, the elimination of overtime for state workers, the requirement for the Energy Commission and the BLM to determine the approach for alternatives and cumulative impacts analysis that satisfies NEPA requirements, delays in filing complicated data responses by the applicant, and the general complexity of the coordinated document, additional time will be needed to complete the technical sections required for the PSA/DEIS. In addition, the modifications to the project by the applicant to minimize potential environmental impacts and address public concerns raised during the scoping and discovery process have required the BLM and Energy Commission staff to perform additional analysis or revise previously completed analysis.

At this point, staff recognizes that it is not possible to meet the schedule presented in the March 4, 2009 Revised Committee Scheduling Order and that it will be necessary to adjust the publication of the PSA/DEIS and the date of the PSA/DIES workshop in the future. The BLM and Energy Commission staff are working to accelerate the schedule where appropriate and feasible.

The following table summarizes the schedule per the Revised Committee Scheduling Order dated March 4, 2009 with additional information on the status of several milestones:

Revised Committee Schedule – March 4, 2009

SCHEDULE DATE	ACTUAL DATE	EVENT
Jun 30, 2008		Application for Certification (AFC) filed by project owner
Aug 13, 2008		AFC Deemed Data Inadequate
Oct 08, 2008		AFC Deemed Data Adequate
Oct 08, 2008		Energy Commission Committee assigned to oversee AFC process
Oct 17, 2008		BLM publishes NOI in FR (60-day scoping)
Nov 14, 2008	<i>Nov 14, 2008 Dec 2, 2008</i>	CEC/BLM staff file data requests (set 1, <i>part 1</i>) <i>CEC/BLM staff file data requests (set 1, part 2)</i>
Nov 17, 2008		CEC/BLM staff file Issues Identification Report
Nov 24, 2008		Informational Hearing and Site Visit/BLM Scoping Meeting
Dec 08, 2008	<i>Dec 10, 2008 Mar 20, 2009 Apr 1, 2009</i>	Applicant provides data responses (set 1, <i>part 1</i>) <i>Applicant provides data responses (set 1, part 1 revisions and plans)</i> <i>Applicant provides data responses (set 1, part 2)</i>
Dec 18, 2008		Data Response and Issue Resolution workshop/Second BLM Scoping Meeting
Jan 2, 2009		Formal BLM scoping period closes (15 days after last meeting)
Feb 13, 2009	<i>May 6, 2009 June 18, 2009</i>	CEC/BLM staff file data requests (set 2, <i>part 1</i>) <i>CEC/BLM staff file data requests (set 2, part 2)</i>
Jan 15, 2009		Status Report # 1 due
Mar 3, 2009	<i>June 5, 2009 Pending July 8, 2009</i>	Applicant provides data responses (set 2, <i>part 1</i>) <i>Applicant provides data responses (set 2, part 2, #142-150)</i> <i>Applicant provides data responses (set 2, part 2, #151-155)</i>
Mar 05, 2009		Status Report #2 due
Mar 17, 2009		Local, state, and federal agency determinations
Mar 23, 2009	May 7, 2009	Data Response and Issue Resolution workshop #2
Apr 1, 2009		BLM NOA on PSA/DEIS sent to WO and ASLM (4-6 weeks)
May 05, 2009		Status Report #3 due
May 6, 2009		PSA/DEIS filed (90-day comment period required)
May 28, 2009		PSA Workshop/DEIS public meetings
Jul 21, 2009		Local, state and federal agency final determination
Aug 6, 2009		BLM comment period closes
Aug 7, 2009		Status Report # 4 due
Sep 17, 2009		Prepare responses to comments and prepare FSA/FEIS
Nov 15, 2009		NOA FEIS to WO and ASLM (4-6 weeks)
Dec 15, 2009		NOA of FSA/FEIS in FR
Dec 15, 2009		Final Staff Assessment/FEIS filed

(Shaded events have already taken place)

Staff clarifications show in italics

BLM Schedule Acronyms:

ASLM - Assistant Secretary for Lands and Minerals
 BLM - Bureau of Land Management
 DEIS –Draft Environmental Impact Statement
 FEIS - Final Environmental Impact Statement
 FR - Federal Register

IBLA - United States Interior Board of Land Appeals
 NOA - Notice of Availability
 NOI - Notice of Intent
 ROD - Record of Decision
 WO - BLM Washington Office



**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
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**APPLICATION FOR CERTIFICATION
For the SES SOLAR TWO PROJECT**

Docket No. 08-AFC-5

PROOF OF SERVICE

(Revised 5/26/09)

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DECLARATION OF SERVICE

I, Mineka Foggie, declare that August 10, 2009, I served and filed copies of the attached Stirling Energy Systems Solar Two Project (08-AFC-5) – Status Report #4, dated August 6, 2009. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at:

[www.energy.ca.gov/sitingcases/solartwo]. The document has been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

(Check all that Apply)

FOR SERVICE TO ALL OTHER PARTIES:

✓ sent electronically to all email addresses on the Proof of Service list;

✓ by personal delivery or by depositing in the United States mail at Sacramento, CA with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service list above to those addresses **NOT** marked "email preferred."

AND

FOR FILING WITH THE ENERGY COMMISSION:

✓ sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below (*preferred method*);

OR

 depositing in the mail an original and 12 paper copies, as follows:

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 08-AFC-5
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512

docket@energy.state.ca.us

I declare under penalty of perjury that the foregoing is true and correct.

Original signed by _____
Mineka Foggie